

AMENDED IN SENATE DECEMBER 17, 2009

AMENDED IN SENATE OCTOBER 14, 2009

AMENDED IN SENATE SEPTEMBER 10, 2009

AMENDED IN SENATE SEPTEMBER 8, 2009

AMENDED IN SENATE SEPTEMBER 2, 2009

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1536

Introduced by Assembly Member Blakeslee

February 27, 2009

An act to ~~amend Section 379.6 of~~ *add Section 565 to the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1536, as amended, Blakeslee. ~~Distributed energy resources incentive program.~~ *Electricity: Pacific Gas and Electric Company: seismic fault.*

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities including electrical corporations, as defined.

Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to conduct various

assessments and forecasts on energy industry supply, production, transportation, delivery and distribution, demand, and prices.

This bill would require Pacific Gas and Electric Company, in furtherance of the recommendations made by the Energy Commission, to conduct seismic fault studies or surveys in areas at or near the Diablo Canyon Nuclear Power Plant in order to maintain reliable operation of the electrical grid and mitigate impacts to customer rates that could result from a seismic event. Because a violation of this requirement would be a crime, this bill would impose a state-mandated local program. The bill would require the commission, in consultation with the California Geological Survey and the Seismic Safety Commission, to conduct or facilitate a peer review of any fault studies or surveys conducted pursuant to that requirement within 120 days of receipt of a final study or survey. The bill would require the Pacific Gas and Electric Company to fund all costs associated with a peer review of any studies or surveys and would require the commission to authorize the utility to fully recover, in its generation procurement rates, all reasonable costs associated with any studies, surveys, or peer review required pursuant to the bill.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would make legislative findings and declarations as to the necessity of a special statute for legislation.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

~~Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to administer, until January 1, 2012, a self-generation incentive program for distributed generation resources.~~

~~This bill would instead require the PUC, in consultation with the Energy Commission, to administer the distributed energy resources incentive program for distributed generation until January 1, 2012, for the purposes of deploying distributed generation technologies that the PUC determines produce benefits for ratepayers commensurate with~~

their contribution to the costs of the program. The bill would additionally authorize incentives to be provided pursuant to the program for energy storage systems meeting certain requirements and would delete certain combustion-operated distributed generation projects from eligibility. The bill would delete the commission's existing authority to include other ultraclean and low-emission distributed generation technologies, as defined, in the program. The bill would limit program costs to no more than \$83,000,000 per year.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) In issuing Decision 07-03-044, the Public Utilities*
- 4 *Commission authorized an expenditure of sixteen million eight*
- 5 *hundred thousand dollars (\$16,800,000) of ratepayer funds to*
- 6 *explore the feasibility of relicensing the Diablo Canyon Nuclear*
- 7 *Power Plant.*
- 8 *(b) The Public Utilities Commission, regarding the expenditure*
- 9 *of those funds, said that Pacific Gas and Electric Company should*
- 10 *defer, to the extent feasible, its work, its own study, and associated*
- 11 *spending, until after the State Energy Resources Conservation and*
- 12 *Development Commission (Energy Commission) issues its findings*
- 13 *and conclusions pursuant to Section 25303 of the Pubic Resources*
- 14 *Code, and that Pacific Gas and Electric Company should*
- 15 *incorporate the findings and recommendations of that Energy*
- 16 *Commission assessment in its own work.*
- 17 *(c) The assessment made pursuant to Section 25303 of the Public*
- 18 *Resources Code included several findings and recommendations;*
- 19 *in particular, the Energy Commission found that Pacific Gas and*
- 20 *Electric Company should use three-dimensional geophysical*
- 21 *seismic reflection mapping and other advanced techniques to*
- 22 *explore fault zones near Diablo Canyon.*
- 23 *(d) The July 2007 magnitude 6.8 Japan Sea earthquake located*
- 24 *16 kilometers from Tokyo Electric Power Company's*
- 25 *Kashiwazaki-Kariwa Nuclear Power Plant shut down the facility*
- 26 *at a cost of some hundreds of millions of dollars per month.*

1 (e) *In November 2008, the United States Geological Survey*
2 *identified a previously unidentified offshore fault approximately*
3 *one kilometer west of Diablo Canyon Nuclear Power Plant with*
4 *an estimated ability to generate a magnitude 6.5 earthquake.*

5 SEC. 2. *Section 565 is added to the Public Utilities Code, to*
6 *read:*

7 565. (a) (1) *Pacific Gas and Electric Company shall, in*
8 *furtherance of the recommendations made by the Energy*
9 *Commission pursuant to paragraph (8) of subdivision (a) of Section*
10 *25303 of the Public Resources Code, conduct seismic fault studies*
11 *or surveys, including, but not limited to, three-dimensional*
12 *geophysical seismic reflection mapping, in areas at or near the*
13 *Diablo Canyon Nuclear Power Plant, in order to maintain reliable*
14 *operation of the electrical grid and mitigate impacts to customer*
15 *rates that could result from a seismic event.*

16 (2) *The Energy Commission, in consultation with the California*
17 *Geological Survey and the Seismic Safety Commission, may*
18 *participate in the development of study or survey designs.*

19 (b) (1) *The Energy Commission, in consultation with the*
20 *California Geological Survey and the Seismic Safety Commission,*
21 *shall conduct or facilitate a peer review of any studies or surveys*
22 *conducted pursuant to subdivision (a) within 120 days of receipt*
23 *of a final study or survey.*

24 (2) *The Energy Commission may enter into agreements with*
25 *qualified scientists with expertise in fault imaging and character*
26 *and behavior studies to conduct an external scientific peer review*
27 *of the scientific basis for any fault study or survey.*

28 (3) *The Energy Commission shall include the findings and*
29 *recommendations of any studies or surveys conducted pursuant*
30 *to subdivision (a) in the integrated energy policy report as updates*
31 *pursuant to subparagraph (D) of paragraph (8) of subdivision (a)*
32 *of Section 25303 of the Public Resources Code.*

33 (4) *Pacific Gas and Electric Company shall be responsible for*
34 *funding all costs associated with a peer review of any studies or*
35 *surveys conducted pursuant to subdivision (a).*

36 (c) *The commission shall allow Pacific Gas and Electric*
37 *Company to fully recover, in its generation procurement rates, all*
38 *reasonable costs associated with any studies or surveys required*
39 *pursuant to subdivision (a) and the peer review required pursuant*
40 *to subdivision (b). The commission shall expedite issuance of its*

1 *decision approving the recovery of costs as specified in this section,*
2 *so that the decision is made within 120 days of filing the*
3 *application.*

4 *SEC. 3. No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *the only costs that may be incurred by a local agency or school*
7 *district will be incurred because this act creates a new crime or*
8 *infraction, eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within*
11 *the meaning of Section 6 of Article XIII B of the California*
12 *Constitution.*

13 *SEC. 4. The Legislature finds and declares that a special law*
14 *is necessary and that a general law cannot be made applicable*
15 *within the meaning of Section 16 of Article IV of the California*
16 *Constitution because of unique circumstances pertaining to Pacific*
17 *Gas and Electric Company.*

18 *SEC. 5. This act is an urgency statute necessary for the*
19 *immediate preservation of the public peace, health, or safety within*
20 *the meaning of Article IV of the Constitution and shall go into*
21 *immediate effect. The facts constituting the necessity are:*

22 *Pacific Gas and Electric Company has recently announced that*
23 *it will seek federal approval for a license renewal to extend*
24 *operation of the Diablo Canyon Nuclear Power Plant. To ensure*
25 *the ongoing safe operation of the Diablo Canyon Nuclear Power*
26 *Plant, it is critical that Pacific Gas and Electric Company conduct*
27 *the studies and surveys required by this act as soon as possible*
28 *before obtaining federal relicensure for the power plant.*

29 ~~SECTION 1. Section 379.6 of the Public Utilities Code is~~
30 ~~amended to read:~~

31 ~~379.6. (a) (1) The commission, in consultation with the Energy~~
32 ~~Commission, shall administer, until January 1, 2012, the distributed~~
33 ~~energy resources initiative program, originally established pursuant~~
34 ~~to Chapter 329 of the Statutes of 2000. The distributed energy~~
35 ~~resources eligible for program incentives are those specified in~~
36 ~~subdivision (b). The purpose of the program is to deploy distributed~~
37 ~~energy resources that the commission determines produce benefits~~
38 ~~for ratepayers commensurate with their contribution to the costs~~
39 ~~of the program.~~

~~(2) The commission shall administer solar technologies separately pursuant to the California Solar Initiative adopted by the commission in Decision 05-12-044 and Decision 06-01-024, as modified by Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code and Article 1 (commencing with Section 2851) of Chapter 9 of Part 2.~~

~~(b) Distributed energy resources that are eligible for the program shall be limited to the following:~~

~~(1) Fuel cells and wind distributed generation technologies that meet or exceed the emissions standards required under the distributed generation certification program requirements of Article 3 (commencing with Section 94200) of Subchapter 8 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations.~~

~~(2) Energy storage systems with a storage capacity of 10 megawatts or less that meet any of the following requirements:~~

~~(A) The energy storage system supports the integration of an eligible renewable energy resource pursuant to Article 16 (commencing with Section 399.11) of Chapter 2.3.~~

~~(B) The energy storage system is capable of responding to dispatch and market protocols for grid reliability and stability.~~

~~(C) The energy storage system is capable of providing frequency or area control error regulation required to integrate intermittent eligible renewable energy resources and maintain reliable operation of the electrical grid.~~

~~(D) The energy storage system stores energy to be dispatched at a later time.~~

~~(e) Energy storage systems that have a storage capacity of more than 10 megawatts are not eligible for the program.~~

~~(d) (1) In administering the distributed energy resources incentive program, the commission may adjust the amount of rebates and evaluate other public policy interests, including, but not limited to, ratepayers, and energy efficiency and environmental interests.~~

~~(2) Notwithstanding paragraph (1), the commission may authorize the expenditure of not more than eighty-three million dollars (\$83,000,000) per year for the program, including incentive payments and program administrative costs.~~

~~(e) (1) In administering the distributed energy resources incentive program, the commission shall provide an additional incentive of 20 percent from existing program funds for the~~

1 ~~installation of distributed energy resources from a California~~
2 ~~supplier.~~

3 ~~(2) “California supplier” as used in this subdivision means any~~
4 ~~sole proprietorship, partnership, joint venture, corporation, or other~~
5 ~~business entity that manufactures distributed energy resources in~~
6 ~~California and that meets either of the following criteria:~~

7 ~~(A) The owners or policymaking officers are domiciled in~~
8 ~~California and the permanent principal office, or place of business~~
9 ~~from which the supplier’s trade is directed or managed, is located~~
10 ~~in California.~~

11 ~~(B) A business or corporation, including those owned by, or~~
12 ~~under common control of, a corporation, that meets all of the~~
13 ~~following criteria continuously during the five years prior to~~
14 ~~providing distributed energy resources to a distributed energy~~
15 ~~resources incentive program recipient:~~

16 ~~(i) Owns and operates a manufacturing facility located in~~
17 ~~California that builds or manufactures distributed energy resources.~~

18 ~~(ii) Is licensed by the state to conduct business within the state.~~

19 ~~(iii) Employs California residents for work within the state.~~

20 ~~(3) For purposes of qualifying as a California supplier, a~~
21 ~~distribution or sales management office or facility does not qualify~~
22 ~~as a manufacturing facility.~~